

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2007-0887-PST-E **TCEQ ID:** RN102007952 **CASE NO.:** 33744**RESPONDENT NAME:** Town & Country Food Stores, Inc. dba Town & Country 271

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Town & Country 271, 91 West 2nd Street, Big Lake, Reagan County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on October 1, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Judy Kluge, Enforcement Division, Enforcement Team 6, MC R-04, (817) 588-5825; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Robert Eggleston, Senior Director of Petroleum Marketing, Town & Country Food Stores, Inc., P.O. Box 5581, San Angelo, Texas 76902 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2007-0887-PST-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 27, 2007</p> <p>Date of NOV/NOE Relating to this Case: May 31, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation. Four violations were documented.</p> <p>WASTE</p> <p>1) Failed to ensure that a valid, current TCEQ delivery certificate is posted at the Facility [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii)].</p> <p>2) Failed to obtain a Statistical Inventory Reconciliation ("SIR") analysis from the designated provider within 15 calendar days following the last day of the calendar month for which the analysis was performed. Specifically, it was documented that the date of the SIR reports exceeded the 15-day limit [30 TEX. ADMIN. CODE § 334.50(d)(9)(A)(iii) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>3) Failed to report a suspected release to TCEQ within 24 hours of discovery. Specifically, the SIR results of the super unleaded tank for November 2006 indicated a suspected release that was not reported to the TCEQ [30 TEX. ADMIN. CODE §§ 334.50(d)(9)(A)(iv) and 334.72(3)(B)].</p> <p>4) Failed to investigate a suspected release within 30 days of discovery. Specifically, SIR results of the super unleaded tank for November 2006 indicated a suspected release that was not investigated [30 TEX. ADMIN. CODE § 334.74(1)].</p>	<p>Total Assessed: \$8,550</p> <p>Total Deferred: \$1,710 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$6,840</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. The TCEQ San Angelo Regional office received documentation verifying that the current delivery certificate was posted at the Facility on April 28, 2007;</p> <p>b. The TCEQ San Angelo Regional office received documentation verifying that as of February 6, 2007, the required suspected release investigation was conducted, corrective measures were taken to conduct inventory measurements and reconciliation accurately, and passing results were achieved in the Statistical Inventory Reconciliation ("SIR") analysis reports; and</p> <p>c. On June 8, 2007, the TCEQ San Angelo Regional office received documentation certifying that the SIR analysis reports are being obtained from the vendor within the first 15 calendar days of the month as required.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

TCEQ

DATES	Assigned	4-Jun-2007	Screening	7-Jun-2007	EPA Due	
	PCW	7-Jun-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	Town & Country Food Stores, Inc. dba Town & Country 271		
Reg. Ent. Ref. No.	RN102007952		
Facility/Site Region	8-San Angelo	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	33744	No. of Violations	4	
Docket No.	2007-0887-PST-E	Order Type	1660	
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Judy Kluge	
Multi-Media		EC's Team	EnforcementTeam 6	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$9,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 0% Enhancement Subtotals 2, 3, & 7 \$0Notes No adjustment due to compliance history.Culpability No 0% Enhancement Subtotal 4 \$0Notes The Respondent does not meet the culpability criteria.Good Faith Effort to Comply 10% Reduction Subtotal 5 \$950

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes The respondent came into compliance on June 8, 2007.

Total EB Amounts	\$135	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$3,700	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7

Final Subtotal \$8,550

OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes Final Penalty Amount \$8,550

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$8,550

DEFERRAL

 20%

Reduction

Adjustment -\$1,710

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

 \$6,840

Screening Date 7-Jun-2007

Docket No. 2007-0887-PST-E

PCW

Respondent Town & Country Food Stores, Inc. dba Town & Country 2

Policy Revision 2 (September 2002)

Case ID No. 33744

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102007952

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment due to compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 7-Jun-2007 Respondent Town & Country Food Stores, Inc. dba Town & Country 271 Case ID No. 33744 Reg. Ent. Reference No. RN102007952 Media [Statute] Petroleum Storage Tank Enf. Coordinator Judy Kluge Violation Number <input type="text" value="1"/>	Docket No. 2007-0887-PST-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision June 26, 2007</i>														
Rule Cite(s) <input type="text" value="30 Tex. Admin. Code § 334.8(c)(5)(A)(iii)"/>															
Violation Description <input type="text" value="Failed to ensure that a valid, current TCEQ delivery certificate is posted at the Facility."/>															
Base Penalty <input type="text" value="\$10,000"/>															
>> Environmental, Property and Human Health Matrix															
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major Moderate Minor</td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>		Harm		Release	Major Moderate Minor		Actual	<input type="text"/>	<input type="text"/>	Potential	<input type="text"/>	<input type="text"/>		
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Release	Major Moderate Minor														
Actual	<input type="text"/>	<input type="text"/>													
Potential	<input type="text"/>	<input type="text"/>													
Percent <input type="text" value="0%"/>															
>> Programmatic Matrix															
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<input type="text"/>	<input type="text" value="x"/> <input type="text"/> <input type="text"/>														
Percent <input type="text" value="10%"/>															
Matrix Notes	<input type="text" value="100% of the rule requirement was not met."/>														
Adjustment <input type="text" value="\$9,000"/>															
<input type="text" value="\$1,000"/>															
Violation Events															
<table style="width: 100%;"> <tr> <td style="width: 40%;"> Number of Violation Events <input type="text" value="1"/> </td> <td style="width: 20%; text-align: center;"> <input type="text" value="1"/> </td> <td style="width: 40%;"> Number of violation days </td> </tr> </table>		Number of Violation Events <input type="text" value="1"/>	<input type="text" value="1"/>	Number of violation days											
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quarterly	<input type="text"/>														
semiannual	<input type="text"/>														
annual	<input type="text"/>														
single event	x														
Violation Base Penalty <input type="text" value="\$1,000"/>															
<input type="text" value="One single event is recommended based on documentation of the violation during the April 27, 2007 investigation."/>															
Economic Benefit (EB) for this violation															
Statutory Limit Test															
Estimated EB Amount <input type="text" value="\$0"/>	Violation Final Penalty Total <input type="text" value="\$900"/>														
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$900"/>															

Economic Benefit Worksheet

Respondent Town & Country Food Stores, Inc. dba Town & Country 271

Case ID No. 33744

Reg. Ent. Reference No. RN102007952

Media Petroleum Storage Tank

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	27-Apr-2007	28-Apr-2007	0.0	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost to post the delivery certificate at the Facility. The date required is the investigation date and the final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$0

Screening Date 7-Jun-2007

Docket No. 2007-0887-PST-E

PCW

Respondent Town & Country Food Stores, Inc. dba Town & Country 271

Policy Revision 2 (September 2002)

Case ID No. 33744

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102007952

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 334.50(d)(9)(A)(iii) and Tex. Water Code § 26.3475(c)(1)

Violation Description

Failed to obtain an SIR analysis from the designated provider within 15 calendar days following the last day of the calendar month for which the analysis was performed. Specifically, it was documented that the date of the SIR reports exceeded the 15-day limit.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

45 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended from the April 27, 2007 investigation date to the June 8, 2007 compliance date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$14

Violation Final Penalty Total \$2,250

This violation Final Assessed Penalty (adjusted for limits) \$2,250

Economic Benefit Worksheet**Respondent** Town & Country Food Stores, Inc. dba Town & Country 271**Case ID No.** 33744**Reg. Ent. Reference No.** RN102007952**Media** Petroleum Storage Tank**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	15-Nov-2006	8-Jun-2007	0.6	\$14	n/a	\$14

Notes for DELAYED costs

Estimated cost to obtain SIR analysis records within 15 calendar days following the last day of the calendar month for which the analysis was performed. The date required is 15 days after the month of October 2006 when the SIR report was required to be obtained and the final date is the date of compliance.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs**Approx. Cost of Compliance****\$500****TOTAL****\$14**

Screening Date 7-Jun-2007

Docket No. 2007-0887-PST-E

PCW

Respondent Town & Country Food Stores, Inc. dba Town & Country 271

Policy Revision 2 (September 2002)

Case ID No. 33744

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102007952

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 334.50(d)(9)(A)(iv) and 334.72(3)(B)

Violation Description

Failed to report a suspected release to TCEQ within 24 hours of discovery. Specifically, the SIR results of the super unleaded tank for November 2006 indicated a suspected release that was not reported to the TCEQ.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the April 27, 2007 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$100

Violation Final Penalty Total \$900

This violation Final Assessed Penalty (adjusted for limits) \$900

Economic Benefit Worksheet

Respondent Town & Country Food Stores, Inc. dba Town & Country 271

Case ID No. 33744

Reg. Ent. Reference No. RN102007952

Media Petroleum Storage Tank

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering Item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$100	1-Dec-2006	2-Dec-2006	0.0	\$0	\$100	\$100

Notes for AVOIDED costs

Estimated cost to report a suspected release. The date required is the date of the suspected release and the final date is the date the report was due.

Approx. Cost of Compliance

\$100

TOTAL

\$100

Screening Date 7-Jun-2007

Docket No. 2007-0887-PST-E

PCW

Respondent Town & Country Food Stores, Inc. dba Town & Country 271

Policy Revision 2 (September 2002)

Case ID No. 33744

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102007952

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 334.74(1)

Violation Description

Failed to investigate a suspected release within 30 days of discovery. Specifically, SIR results of the super unleaded tank for November 2006 indicated a suspected release that was not investigated.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

41 Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$5,000

Two monthly events are recommended from the release investigation due date of December 31, 2006 to the February 6, 2007 compliance date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$4,500

This violation Final Assessed Penalty (adjusted for limits) \$4,500

Economic Benefit Worksheet**Respondent** Town & Country Food Stores, Inc. dba Town & Country 271**Case ID No.** 33744**Reg. Ent. Reference No.** RN102007952**Media** Petroleum Storage Tank**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$3,000	31-Dec-2006	6-Feb-2007	0.1	\$1	\$20	\$21
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to investigate a suspected release. The date required is the date the release investigation was due and the final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs**Approx. Cost of Compliance**

\$3,000

TOTAL

\$21

Compliance History

Customer/Respondent/Owner-Operator:	CN600891287	Town & Country Food Stores, Inc.	Classification: AVERAGE	Rating: 1.21
Regulated Entity:	RN102007952	TOWN & COUNTRY 271	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION		78355
Location:	91 W 2ND ST, BIG LAKE, TX, 76932			
TCEQ Region:	REGION 08 - SAN ANGELO			
Date Compliance History Prepared:	June 06, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 06, 2002 to June 06, 2007			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Judy Kluge Phone: 817-588-5825

Site Compliance History Components

- Has the site been in existence and/or operation for the full five year compliance period? Yes
- Has there been a (known) change in ownership of the site during the compliance period? No
- If Yes, who is the current owner? N/A
- If Yes, who was/were the prior owner(s)? N/A
- When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- Any criminal convictions of the state of Texas and the federal government.
N/A
- Chronic excessive emissions events.
N/A
- The approval dates of investigations. (CCEDS Inv. Track. No.)
1 05/31/2007 (558720)
- Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- Environmental audits.
N/A
- Type of environmental management systems (EMSs).
N/A
- Voluntary on-site compliance assessment dates.
N/A
- Participation in a voluntary pollution reduction program.
N/A
- Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TOWN & COUNTRY FOOD STORES,
INC. DBA TOWN & COUNTRY 271
RN102007952**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0887-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Town & Country Food Stores, Inc. dba Town & Country 271 ("Town & Country") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Town & Country appear before the Commission and together stipulate that:

1. Town & Country owns and operates a convenience store with retail sales of gasoline at 91 West 2nd Street in Big Lake, Reagan County, Texas (the "Facility").
2. Town & Country's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and Town & Country agree that the Commission has jurisdiction to enter this Agreed Order, and that Town & Country is subject to the Commission's jurisdiction.
4. Town & Country received notice of the violations alleged in Section II ("Allegations") on or about June 5, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Town & Country of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eight Thousand Five Hundred Fifty Dollars (\$8,550) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Town & Country has paid Six Thousand Eight Hundred Forty Dollars (\$6,840)

of the administrative penalty and One Thousand Seven Hundred Ten Dollars (\$1,710) is deferred contingent upon Town & Country's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Town & Country fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Town & Country to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Town & Country have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Town & Country has implemented the following corrective measures at the Facility:
 - a. The TCEQ San Angelo Regional office received documentation verifying that the current delivery certificate was posted at the Facility on April 28, 2007;
 - b. The TCEQ San Angelo Regional office received documentation verifying that as of February 6, 2007, the required suspected release investigation was conducted, corrective measures were taken to conduct inventory measurements and reconciliation accurately, and passing results were achieved in the Statistical Inventory Reconciliation ("SIR") analysis reports; and
 - c. On June 8, 2007, the TCEQ San Angelo Regional office received documentation certifying that the SIR analysis reports are being obtained from the vendor within the first 15 calendar days of the month as required.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Town & Country has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, Town & Country is alleged to have:

1. Failed to ensure that a valid, current TCEQ delivery certificate is posted at the Facility, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii), as documented during an investigation conducted on April 27, 2007.

2. Failed to obtain an SIR analysis from the designated provider within 15 calendar days following the last day of the calendar month for which the analysis was performed, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(9)(A)(iii) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on April 27, 2007. Specifically, it was documented that the date of the SIR reports exceeded the 15-day limit.
3. Failed to report a suspected release to TCEQ within 24 hours of discovery, in violation of 30 TEX. ADMIN. CODE §§ 334.50(d)(9)(A)(iv) and 334.72(3)(B), as documented during an investigation conducted on April 27, 2007. Specifically, the SIR results of the super unleaded tank for November 2006 indicated a suspected release that was not reported to the TCEQ.
4. Failed to investigate a suspected release within 30 days of discovery, in violation of 30 TEX. ADMIN. CODE § 334.74(1), as documented during an investigation conducted on April 27, 2007. Specifically, SIR results of the super unleaded tank for November 2006 indicated a suspected release that was not investigated.

III. DENIALS

Town & Country generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Town & Country pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Town & Country's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Town & Country Food Stores, Inc. dba Town & Country 271, Docket No. 2007-0887-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon Town & Country. Town & Country is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Town & Country in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Town & Country, or three days after the date on which the Commission mails notice of the Order to Town & Country, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Town & Country, or three days after the date on which the Commission mails notice of the Order to Town & Country, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Sullivan
For the Executive Director

10/9/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Robert Eggleston
Signature

7-25-07
Date

Robert Eggleston
Name (Printed or typed)
Authorized Representative of
Town & Country Food Stores, Inc. dba Town & Country 271

SR. Director Petroleum Marketing
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

